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|-----------------------|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/533,892            | 05/05/2005  | Walter Wolf          | 016906-0391         | 8121             |
| 22428                 | 7590        | 12/28/2007           |                     |                  |
| FOLEY AND LARDNER LLP |             |                      | EXAMINER            |                  |
| SUITE 500             |             |                      | KOSANOVIC, HELENA   |                  |
| 3000 K STREET NW      |             |                      | ART UNIT            | PAPER NUMBER     |
| WASHINGTON, DC 20007  |             |                      | 3749                |                  |
|                       |             |                      | MAIL DATE           | DELIVERY MODE    |
|                       |             |                      | 12/28/2007          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                               |                              |
|------------------------------|-------------------------------|------------------------------|
| <b>Office Action Summary</b> | Application No.<br>10/533,892 | Applicant(s)<br>WOLF, WALTER |
|                              | Examiner<br>Helena Kosanovic  | Art Unit<br>3749             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(d).

#### Status

1)  Responsive to communication(s) filed on 16 July 2007.  
 2a)  This action is FINAL.                    2b)  This action is non-final.  
 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4)  Claim(s) 14-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5)  Claim(s) \_\_\_\_\_ is/are allowed.  
 6)  Claim(s) 14-28 is/are rejected.  
 7)  Claim(s) \_\_\_\_\_ is/are objected to.  
 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9)  The specification is objected to by the Examiner.  
 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a)  All    b)  Some \* c)  None of:  
 1.  Certified copies of the priority documents have been received.  
 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

Due to pre-appeal brief conference, the finality of previous office action is withdrawn and this office action is made non-final.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 14-18 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasch EP 0662901 in view of Neuss 2001/0024047
2. Regarding claim 14, Pasch teaches an invention as claimed: A cross member 1, 17 (fig. 1) for a vehicle (col. 1, ll. 3-4) and adapted for mounting a heating and/or air-conditioning (HVAC) unit 7 (fig. 2) that has at least one air outlet 8,9 having: a basic body 4, 3 (fig. 1) which is adapted to be transversely mounted between respective sides of a vehicle and which comprises a metal frame member 1 (Fig. 1, col. 2, ll. 20-22) that has at least a partially closed profile cross-section 1 defining a hollow space 4 (fig. 2) axially extending along the frame member 1, said basic body having at least two generally straight subsections 4 which are connected via a third subsection 3 (fig. 1) of said frame member, wherein said third subsection comprises a generally L shaped

portion (col. 2, II. 15-17) of said frame member that forms a widened area formed of elements 3 and 17 (fig. 1) for at least partially encircling the HVAC unit; at least one air duct 13 (fig. 2) within said hollow space in at least one of said first and second subsections, wherein at least one air duct 13 is positioned for connection to the air outlet 9 of the HVAC unit.

3. Regarding claim 15 said basic body is configured to accept an HVAC unit 7 terminating with the air outlet 9 in approximately the plane of said generally C/L-shaped portion of the frame member and wherein the at least one air duct 16 is positioned to directly connect with the air outlet of the HVAC unit (fig. 2).

4. Regarding claim 16 air outlet 9 opens into at least one duct 13', where element 13' is part of duct 13 between elements 15 and 9 (fig. 2).

5. Regarding claim 17, said cross member further having an adapter element 15 for connecting the air outlet with the at least one air duct.

6. Regarding claim 18, the basic body is configured to receive an HVAC unit 7 terminating with air outlet 9 on one side the plane of said generally C/L-shaped portion of the frame member, wherein the at least one air duct 13' is diverted in a portion at said generally C/L-shaped portion of the frame member, and wherein the at least one air duct is positioned to connect with air outlet 9 of the HVAC unit (fig. 2)

7. Regarding claim 21 at least one air duct 16 is defined by the basic body (fig. 2).

8. Regarding claim 22 at least one air duct 16 having a separated duct member 13' (fig. 2).

9. Regarding claim 23 said separate duct member having a duct 15 formed of synthetic resin material/ plastic (col. 1 and 2, ll. 58 and 1 respectively).
10. Regarding claim 24 said hollow space having a synthetic resin (col. 1 and 2, ll. 58 and 1 respectively) reinforcing member 16 (fig. 2),
11. Regarding claim 25 said synthetic resin reinforcing member 16 having a reticulated structure (fig. 3).
12. Regarding claim 26, said adapter element 15 is formed from synthetic resin (col. 1 and 2, ll. 58 and 1 respectively).
13. Regarding claim 27, said cross member further having a fourth subsection 17 located in the widened area (fig. 2) and also connecting first and second subsection 4, whereby third 3 and fourth 17 subsection are adapted to generally surround the HVAC unit (fig. 2)
14. Regarding claim 28 a vehicle (col. 1, ll. 3-4) having a cross member 1 (fig. 1) and an HVAC unit 7 (fig. 2) wherein said cross member having a structure defined according to claim 14.

**Pasch was not specific about C shaped portion of said frame member.**

15. Neuss teaches a basic body 10 having a widened area in the middle (see Abstract, I.3, fig. 1) having a generally C-shaped portion 33, 34 (fig. 1).
16. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Pasch invention modified with the Neuss C-shaped portion in order to have more vent openings (elements 16 and 17, fig. 1) molded to the basic body

in the widened area and thus having said connection directly with a part of the housing so that no internal lines have to be laid (paragraph 0010).

17. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasch EP 0662901 in view of Neuss 2001/0024047 and further in view of Heck 5,709,607.

Pasch in view of Neuss teaches the invention as discussed above but is silent about having duct between two ducts instead between two walls.

Heck teaches a duct 42 within a frame duct (unnumbered hollow frame elements above and below elements 42). Regarding the claim limitation that frame is made of metal instead of plastic, as prior art teaches, it would have been obvious to one having ordinary skill in the art at the time the invention was made to metal for the frame, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. (See *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Also MPEP 2144.07)

It would have been obvious to one ordinary skill in the art to have the Pasch in view of Neuss hybrid structure modified with the Heck ducts placed on both sides of the central duct in order to support the dashboard.

***Response to Arguments***

18. Applicant's arguments with respect to claims 14-28 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helena Kosanovic whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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Art Unit 3749  
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STEVEN B. MCALLISTER  
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